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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO. CONFIRMATION NO.			
10/730,883	12/08/2003	William J. McFarland	ATH-0114-1P 4777			
22888 7	7590 08/26/2004		EXAMINER			
BEVER HOP	FMAN & HARMS,	LLP	TON, DANG T			
TRI-VALLEY	OFFICE NNON BLVD., BLDG.	ART UNIT	PAPER NUMBER			
LIVERMORE		3	2666			
		DATE MAILED, 00/06/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No.  10/730,883  MCFARLAND ET AL.  Examiner  Art Unit  2666  DANG T TON  2666  AS HORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM  THE MAILING DATE of THIS COMMUNICATION.  Extraction of the properties of the priority documents have been received.  1   Cartified copies of the priority documents have been received.	į.	n (							
Examiner DANG TTON A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of them may be variables under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filled after SIX (6) MONTH'S from the mailing date of this communication. If NO period for reply is spacing able to the communication. If NO period or reply is spacing able to the communication. Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (39 U.S.C. § 133). Any reply received by the Olitical above, the mailing date of this communication, even if timely filled, may reduce any samed patent term adjustment. See 37 CFR 1.704(b).  Status  1) □ Responsive to communication(s) filled on @8 December 2003. 2a) □ This action is FINAL. 2b) □ This action is non-final. 3) □ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) □ Claim(s) 1-11 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) □ Claim(s) is/are rejected. 7) □ Claim(s) is/are rejected to. 8 □ Claim(s) is/are rejected to. 9 □ The specification is objected to by the Examiner. 10 □ The drawing(s) filed on @8 December 2003 is/are: a) □ accepted or b) □ objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) □ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C.			Applicant(s)	on No.	Appl				
DANS TTON 2666  - The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Repty  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Interest of them my be available under the provision of 3 CFR 1,18(g). In no event, however, may a reply be timely filed state of the repty be available under the provision of 3 CFR 1,18(g). In no event, however, may a reply be timely filed state of the repty be available under the provision of 3 CFR 1,18(g). In no event, however, may a reply be timely filed state of the St. (s) MONTHS from the mailing date of this communication.  If the profice or reply specified above, the maximum statutory period will apply and will expire SIX (s) MAONTHS from the mailing date of this communication.  If the profice or reply specified above, the maximum statutory period will apply and will expire SIX (s) MAONTHS from the mailing date of this communication.  Failur to reply whith the set or extended period for reply with the state. cause the application to become AMADONDED (38 U.S. C. § 135). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term ediplication is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) □ Claim(s) 1-11 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) □ Claim(s) 1-11 is/are allowed.  6) □ Claim(s) is/are objected to by the Examiner.  10) □ The drawing(s) filed on 08 December 2003 is/are: a) □ accepted or b) □ objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to		۹L.	MCFARLAND ET	3	10/7				
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<ul> <li>11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.</li> <li>Priority under 35 U.S.C. § 119</li> <li>12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</li> <li>a) All b) Some * c) None of:</li> <li>1. Certified copies of the priority documents have been received.</li> </ul>		Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).							
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a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.						der 35 U.S.C. § 119	Priority u		
<ul> <li>3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> </ul>	1	Stage	ation No ved in this National	n received. n received in Applic ents have been rece e 17.2(a)).	ty documents have ty documents have s of the priority do tional Bureau (PC	All b) Some * c) None of:  Certified copies of the priority  Copies of the certified copies  application from the Internation	a)[		
Attachment(s)						)	Attachmen		
1) Notice of References Cited (PTO-892)  4) Interview Summary (PTO-413)									
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 5) Notice of Informal Patent Application (PTO-152) 6) Other:		)-152)		5) Notice of Informa		tion Disclosure Statement(s) (PTO-1449 o	3) Inform		

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1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

2. This application is in condition for allowance except for the following formal matters:

In the specification, page 2, applicant should provide the serial number of the copending application.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO**MONTHS from the mailing date of this letter.

3. Claims 1-11 are allowed.

For claims 1-11, the prior art fails to teach a combination of determining whether the new channel is exempt from radar scan in the regulatory domain;

the new channel is exempt, then recommencing normal operation using the new channel;

the new channel is not exempt, then selecting a temporary channel, wherein the temporary channel is exempt from radar scan, and recommencing normal operation using the temporary channel;

performing an aggregate background scan on the new channel; and

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if the new channel passes the aggregate background then recommencing normal operation using the new scan channel.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wiese (6,493,666) and Balachandran et al. (6,483,828) are all cited to show systems which are considered pertinent to the claimed invention.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANG T TON whose telephone number is 703-305-4739. The examiner can normally be reached on MON-WED, 5:30 AM-6:00 PM and Thur 5:30-9:30 A.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RAO SEEMA can be reached on 703-308-5463. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D. Ton

DANG TON PRIMARY EXAMINER